

By: Senator(s) Kirby

To: Judiciary, Division B

SENATE BILL NO. 2963
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 85-3-1, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT HEALTH SAVINGS ACCOUNTS FROM SEIZURE UNDER EXECUTION OR
3 ATTACHMENT AND TO CREATE AN ADDITIONAL EXEMPTION IN FAVOR OF
4 CERTAIN RESIDENT SENIOR CITIZENS; TO PROVIDE AN EARNED INCOME TAX
5 PROCEEDS EXEMPTION; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 85-3-1, Mississippi Code of 1972, is
8 amended as follows:

9 85-3-1. There shall be exempt from seizure under execution
10 or attachment:

11 (a) Tangible personal property of the following kinds
12 selected by the debtor, not exceeding Ten Thousand Dollars
13 (\$10,000.00) in cumulative value:

14 (i) Household goods, wearing apparel, books,
15 animals or crops;

16 (ii) Motor vehicles;

17 (iii) Implements, professional books or tools of
18 the trade;

19 (iv) Cash on hand;

20 (v) Professionally prescribed health aids;

21 (vi) Any items of tangible personal property worth
22 less than Two Hundred Dollars (\$200.00) each;

23 Household goods, as used in this paragraph (a), means
24 clothing, furniture, appliances, one (1) radio and one (1)
25 television, one (1) firearm, one (1) lawnmower, linens, china,
26 crockery, kitchenware, and personal effects (including wedding
27 rings) of the debtor and his dependents; however, works of art,
28 electronic entertainment equipment (except one (1) television and

29 one (1) radio), jewelry (other than wedding rings), and items
30 acquired as antiques are not included within the scope of the term
31 "household goods." This paragraph (a) shall not apply to distress
32 warrants issued for collection of taxes due the state or to wages
33 described in Section 85-3-4.

34 (b) (i) The proceeds of insurance on property, real
35 and personal, exempt from execution or attachment, and the
36 proceeds of the sale of such property.

37 (ii) Income from disability insurance.

38 * * *

39 (c) All property in this state, real, personal and
40 mixed, for the satisfaction of a judgment or claim in favor of
41 another state or political subdivision of another state for
42 failure to pay that state's or that political subdivision's income
43 tax on benefits received from a pension or other retirement plan.
44 As used in this paragraph (c), "pension or other retirement plan"
45 includes:

46 (i) An annuity, pension, or profit-sharing or
47 stock bonus or similar plan established to provide retirement
48 benefits for an officer or employee of a public or private
49 employer or for a self-employed individual;

50 (ii) An annuity, pension, or military retirement
51 pay plan or other retirement plan administered by the United
52 States; and

53 (iii) An individual retirement account.

54 (d) One (1) mobile home, trailer, manufactured housing,
55 or similar type dwelling owned and occupied as the primary
56 residence by the debtor, not exceeding a value of Thirty Thousand
57 Dollars (\$30,000.00); in determining this value, existing
58 encumbrances on said dwelling, including taxes and all other
59 liens, shall first be deducted from the actual value of said
60 dwelling. A debtor is not entitled to the exemption of a mobile
61 home as personal property who claims a homestead exemption under

62 Section 85-3-21, and the exemption shall not apply to collection
63 of delinquent taxes under Sections 27-41-101 through 27-41-109.

64 (e) Assets held in, or monies payable to the
65 participant or beneficiary from, whether vested or not, (i) a
66 pension, profit-sharing, stock bonus or similar plan or contract
67 established to provide retirement benefits for the participant or
68 beneficiary and qualified under Section 401(a), 403(a), or 403(b)
69 of the Internal Revenue Code (or corresponding provisions of any
70 successor law), including a retirement plan for self-employed
71 individuals qualified under one of such enumerated sections, (ii)
72 an eligible deferred compensation plan described in Section 457(b)
73 of the Internal Revenue Code (or corresponding provisions of any
74 successor law), or (iii) an individual retirement account or an
75 individual retirement annuity within the meaning of Section 408 of
76 the Internal Revenue Code (or corresponding provisions of any
77 successor law), including a simplified employee pension plan.

78 (f) The assets of a health savings account, including
79 any interest accrued thereon, established pursuant to a health
80 savings account program as provided in the Health Savings Accounts
81 Act, Section 83-62-1 et seq.

82 (g) In addition to all other exemptions listed in this
83 section, there shall be an additional exemption of property having
84 a value of Fifty Thousand Dollars (\$50,000.00) of whatever type,
85 whether real, personal or mixed, tangible or intangible, including
86 deposits of money, available to any Mississippi resident who is
87 seventy (70) years of age or older.

88 (h) An amount not to exceed Five Thousand Dollars
89 (\$5,000.00) of earned income tax credit proceeds.

90 (i) An amount not to exceed Five Thousand Dollars
91 (\$5,000.00) of federal tax refund proceeds.

92 (j) An amount not to exceed Five Thousand Dollars
93 (\$5,000.00) of state tax refund proceeds.

94 (k) Nothing in this section shall in any way affect the
95 rights or remedies of the holder or owner of a statutory lien or
96 voluntary security interest.

97 **SECTION 2.** This act shall take effect and be in force from
98 and after July 1, 2006.